

# DEPENDENCY CASES IN THE CONTEXT OF FLORIDA'S FAMILY COURT

## Background and General Principles

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Courts across the nation and here in Florida have been restructuring the way family court cases are approached and processed. These efforts embrace the concepts and practices associated with a fully integrated, comprehensive approach to handling all cases involving children and families, while at the same time resolving family disputes in a fair, timely, efficient, and cost-effective manner. Family court practices are employed whether a family has a single court action or multiple actions that need coordination. Pursuant to Florida Supreme Court mandate, dependency cases are included in the jurisdiction of this comprehensive family court model.

Florida's family court initiative began in 1988, with a special project of the Governor's Constituency for Children. The project report defined the "family court" as the court involving all intrafamily matters. At that time, only five of the twenty judicial circuits had family divisions. This group advocated for the establishment of family courts statewide and discussed the importance of coordinating cases dealing with the same child.

Then, in 1991, the Florida Legislature's Commission of Family Courts issued its report recommending the creation of family divisions that provide support services and fully staff mediation and case management programs. Subsequently, between 1991 and 2001, three Supreme Court opinions were issued emphasizing the need for a family court system with an improved method to protect children and resolve family problems. In May 2001, the Supreme Court issued a fourth and unanimous opinion describing key characteristics of a "model family court," providing a framework for Florida's family court.

In 2002, the Supreme Court of Florida issued an administrative order that established the Steering Committee on Families and Children in the Court, merging the Children's Court Improvement Committee and the Family Court Steering Committee.

In 2006, the Florida Senate publishes the Interim Project Report 2007-133: Implementation of the Unified Family Court Model. The report noted partial implementation of the model and found implementation of case management, increased use of alternative dispute resolution, and use of hearing officers and magistrates.

In 2014, the Supreme Court of Florida issued an opinion in In Re: Amendments to the Florida Family Law Rules of Procedure, 132 So. 3d 1114 (Fla. 2014). This opinion adopted five new rules regarding coordination of hearings and cases, judicial access to files, filing court orders, party access to related family files, and confidentiality. The opinion also amended Rule of Judicial Administration 2.545 regarding the notice of related cases.

## **Guiding principles for Florida's family court.**

The dependency court practices outlined throughout this benchbook in the numerous benchcards and checklists conform to the 12 guiding principles as adopted by the Florida Supreme Court in the 2001 opinion. Furthermore, these practices aim to improve decision making in dependency cases and employ strategies that empower families – two overarching themes of Florida's family court. The practices apply both to families involved only in dependency court and to those families with multiple court actions.

### **TWELVE GUIDING PRINCIPLES OF FAMILY COURT**

- Children should live in safe and permanent homes.
- The needs and best interests of children should be the primary consideration of any family court.
- All persons, whether children or adults, should be treated with objectivity, sensitivity, dignity and respect.
- Cases involving interrelated family law issues should be consolidated or coordinated to maximize use of court resources to avoid conflicting decisions and to minimize inconvenience to the families.
- A key part of the family court process should be establishment of processes that attempt to address the family's interrelated legal and non-legal problems to produce results that improve the family's functioning. The process should empower families through skills development, assist them to resolve their own disputes, provide access to appropriate services, and offer a variety of dispute resolution forums where the family can resolve problems without additional emotional trauma.
- Whenever possible, parties and their attorneys should be empowered to select processes for addressing issues in their cases that are compatible with the family's needs, financial circumstances, and legal requirements.
- The court is responsible for managing its cases with due consideration of the needs of the family, the litigants, and the issues presented by the case.
- There should be a means of differentiating among cases so that judicial resources are conserved and cases are diverted to non-judicial and quasi-judicial personnel for resolution, when appropriate and consistent with the ends of justice.
- Trial courts must coordinate and maximize court resources and establish linkages with community resources.
- The court's role in family restructuring is to identify services and craft solutions that are appropriate for long-term stability and that minimize the need for subsequent court action.
- Court services should be available to litigants at a reasonable cost and accessible without economic discrimination.
- Courts should have well trained and highly motivated judicial and non-judicial personnel.

## The 10 Cs: core components of Florida's family court.

- **Chief judge leadership:** support of continued family court improvements to further promote public trust and confidence, and assignment of an administrative judge to oversee and coordinate the family court as set out in the four Supreme Court of Florida opinions.

"To the extent practical, the chief judge shall assign only one administrative judge to supervise the family court." Florida Rule of Judicial Administration 2.215(b)(5).

- **Committed and engaged judges, magistrates, hearing officers:** openness to improving court processes and a desire to learn about the issues facing children and families.

"...it is also important that the judges assigned to this division have a commitment to this important judicial responsibility and a willingness to participate in education and training programs..." In Re: Report of the Commission on Family Courts, 588 So. 2d 586 (Fla. 1991).

- **Comprehensive jurisdiction:** a broad array of case types as defined in the Florida Rules of Judicial Administration.

"...broad jurisdiction over all problems involving a single family is one of the key components of a unified court." In Re: Report of the Family Court Steering Committee, 794 So. 2d 518 (Fla. 2001).

- **Canons, law, rules:** interpretation and application of the laws.

"The primary role of the judge is to enforce and uphold the rule of law." In Re: Report of the Family Court Steering Committee, 794 So. 2d 518, 524 (Fla. 2001).

- **Court case management:** case differentiation, coordination of related cases, and case monitoring.

"Case differentiation means that a case should be evaluated at the outset to determine the appropriate resources for that case and the appropriate way to handle that case. Case coordination requires that the judicial system identify all cases involving that family. Case monitoring requires a continued attention to the needs of the children and family as the case moves through the judicial system so that the appropriate court resources are made available and linkages to appropriate community resources are facilitated." In Re: Report of the Family Court Steering Committee, 794 So. 2d 518, 529 (Fla. 2001).

- **Continuum of self-help services:** access to family court for self-represented litigants, through the provision of information, procedural guidance, and referrals for legal services.

"Effective front-end management allows for litigants to become educated about the system and is crucial to the effective utilization and coordination of both community services and court resources." In Re: Report of the Family Court Steering Committee, 794 So. 2d 518 (Fla. 2001).

- **Conciliatory approach:** nonadversarial approaches and processes.

“Alternative Dispute Resolution (ADR) - Offering alternatives to reduce the trauma of traditional adversarial litigation process.” In Re: Report of the Family Court Steering Committee, 794 So. 2d 518, 529 (Fla. 2001)(referring to one of the Essential Elements endorsed by the Florida Supreme Court).

- **Comprehensive information:** complete picture of the child and family to include both legal issues and underlying problems.

“[R]ecognition of the family’s interrelated legal and nonlegal problems will produce a result that improves the family’s functioning, empowers families to resolve their own disputes, and assists families in resolving problems without additional emotional trauma.” In Re: Report of the Family Court Steering Committee, 794 So. 2d 518, 529 (Fla. 2001) (referring to one of the Family Court Guiding Principles endorsed by Florida Supreme Court).

“[I]n the family court, it is not always the legal issue itself that is time-consuming or complex, but rather it is often the underlying issues such as drug abuse, domestic violence, and family dysfunction that may cause the legal dispute to become time-consuming and complicated. Id. at 524.

- **Collaboration:** court staff, judges, members of the bar, social service providers, and local community leaders to support and advise the family court.

“The success of any family court is dependent upon effective communication among all stakeholders both in the judicial system and in the community.” In Re: Report of the Family Court Steering Committee, 794 So. 2d 518, 534 (Fla. 2001). “Only by open communication among court staff, judges, attorneys, social service providers, and other community leaders will the role and the goal of the family court truly be realized.” Id.

- **Community-based resources:** knowledge of the array of community services available to meet the needs of the family.

“The trial courts must ... establish necessary linkages with community-based resources, including substance abuse treatment counseling, specialized training and parenting course, and social services.” In Re: Report of the Commission on Family Courts, 633 So. 2d 14 (Fla. 1994).